

SOUTH CAROLINA PUBLIC SERVICE COMMISSION

STANDING HEARING OFFICER DIRECTIVE

DOCKET NO. 2014-346-W/S

Order No. 2015-70-H

OCTOBER 1, 2015

Standing Hearing Officer: David Butler

DOCKET DESCRIPTION:

Application of Daufuskie Island Utility Company, Inc. for Approval for Water and Sewer Rates, Terms and Conditions

MATTER UNDER CONSIDERATION:

Motion to Compel

STANDING HEARING OFFICER ACTION:

Motion granted. Haig Point Club and Community Association, Inc. ("HPCCA"), Melrose Property Owner's Association, Inc. ("MPOA") and Bloody Point Property Owner's Association ("BPPOA") (collectively, "the POA Intervenors") filed a Motion to Compel Daufuskie Island Utility Company, Inc. ("Daufuskie" or "the Company") to answer a certain question and provide certain documents contained in the POA Intervenors' Second Interrogatories and Third Requests for Production ("Discovery Requests") served on Daufuskie on August 31, 2015. Interrogatory No. 5 asked "Please identify the purchase price paid for HPUC by CK Materials, LLC, along with the purchaser's and seller's closing statements for the transaction." Request for Production No. 1 asked, "(p)lease provide copies of all documents identified in your response to Intervenors' Second Interrogatories." The Company responded, *inter alia*, by alleging that the referenced transaction is not relevant to the pending application. An objection is stated, based on burdensomeness and lack of relevance. Also, Daufuskie states that the Interrogatory is not reasonably calculated to lead to the discovery of any relevant or admissible evidence, and the Company further notes that the information is part of a Commission approved transaction, and is publicly available. As a final note, Daufuskie states that CK Materials is no longer affiliated with the Company.

I disagree with the Company's assertions and grant the Motion to Compel. First, a relevant portion of the Settlement Agreement approved by the Commission in the last Daufuskie rate case in Order No. 2012-515 reads as follows:

"3. The Parties agree and stipulate that DIUC shall be allowed to set rates and charges on a rate base of \$5,000,000. This stipulated rate base shall not be binding in future proceedings, instead those proceedings will be determined based on the evidence presented in each docket and the applicable law." Settlement Agreement, page 2 of 8

Accordingly, the information sought by the POA Intervenors is either relevant or it is reasonably calculated to lead to the discovery of relevant or admissible evidence, subject to the ultimate determination of the Commission. In other words, the question of the proper rate base is an open one in the present proceeding

by approved agreement of the parties in the last case, and this evidence may be useful in determination of the proper rate base, and proper adjustments. I would note that the purchase price number sought is not a matter of public record at the Commission, since it was redacted from the Haig Point-CK stock purchase agreement at the time of filing for approval of that document, and the number was not presented to the Commission.

I would note that the Company asserts as part of its argument that the information sought is irrelevant, since "Rate base is determined on the basis of book value recorded at original cost, not purchase price whether that price is higher or lower than original cost." Of course, the determination of rate base is up to the Commission, after a review of all the evidence. Although the statement of the rule by the Company for rate base determination is certainly axiomatic, it is not necessarily applicable in all situations. In Order No. 2006-22, the Commission approved a Settlement Agreement in a Utilities Services of South Carolina, Inc. rate case. The Settlement Agreement was supported by the Settlement Testimony of Converse A. Chellis, III. The witness stated as follows: "Permitting USSC to amortize the amount of its investment in plant and facilities that exceeded undepreciated original cost or book value is appropriate where a regulatory body seeks to divide fairly the costs associated with plant investment between a utility's investors and its customers." Mr. Chellis then quoted two sources in the literature supporting his proposition. He then stated, "In the context of the comprehensive settlement proposed by the parties and given the unusual circumstances of the case, acceptance of the amortization as a compromise is appropriate." Chellis Settlement Testimony in Docket No. 2005-217-W/S, pages 4-5. The Commission then went on to accept the amortization when it approved the Settlement Agreement in that case.

Of course, whether the Commission accepts such a principle to aid in determination of the proper rate base in the present case will be up to the Commission after consideration of all of the evidence, but the POA Intervenor is certainly entitled to the information. It is also reasonable for the POA Intervenor to view the purchaser's and seller's closing statements for the transaction, in order to determine what elements may have been a part of the purchase price. The Motion to Compel is granted. The Company shall answer the interrogatory and provide purchaser's and seller's closing statements for the transaction in its possession to counsel for the POA Intervenor by 5 pm EDT on Monday, October 5, 2015.